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May 16, 1996

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D. C. 20554

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MAY 16 1996

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In the Matter of:

Implementation of the Local Competition
Provisions in the Telecommunications Act
of 1996

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CC Docket No. 96-98

Dear Mr. Caton:

Enclosed are an original and sixteen copies of the Comments of Cincinnati Bell Telephone Company in the above referenced proceeding. A duplicate original copy of this letter and attached Comments is also provided. Please date stamp this as acknowledgment of its receipt and return it. Questions regarding these Comments may be directed to Ms. Patricia Rupich at the above address or by telephone on (513) 397-6671.

Sincerely,

David L. Meier

Enclosure

cc: Janice Myles (Paper and disk copy)
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COMMENTS OF
CINCINNATI BELL TELEPHONE COMPANY
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
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Competition Provisions in the)	
Telecommunications Act of 1996)	
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COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

SUMMARY

Cincinnati Bell Telephone Company ("CBT"), an independent, mid-size local exchange carrier, submits these comments in response to the Commission's proposed rules released April 19, 1996 to implement Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act").¹ In its comments, CBT expresses its concern that the unique circumstances of CBT and other small and mid-size companies may be overlooked when the rules are implemented. Failure by the Commission to adequately address the special concerns of smaller companies and the markets they serve would have a negative impact on their customers and will not produce the benefits of a competitive environment envisioned by the Act. CBT urges the Commission to carefully consider the principles set forth in

¹ In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, released April 19, 1996. See also, Telecommunications Act of 1996, Pub. L. 104-104, §§ 251-252.

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those comments as the proper framework from which to design an economically efficient, competitively neutral system which will preserve universal service.

Although many of the mandates of the Act may in fact be appropriate in a redesigned system free of implicit subsidies and averaged rates, application of many of the provisions of the Act under the current regulatory framework would constitute an unconstitutional taking of LEC property. Incumbent LECs must be allowed to recover not only the cost for the service at issue, but also those joint, common and historical costs imposed by regulators in mandating affordability standards and obligations to serve.

In its comments, CBT recommends that the Commission establish guidelines for what constitutes a bona fide request ("BFR") for interconnection, including a requirement to reimburse the LEC for any loss it incurs in fulfilling the BFR requirements. In addition, CBT believes that the Commission should set some flexible standards for determining technically feasible points of interconnection.

CBT concurs with the Commission's tentative conclusion that the Commission should identify a minimum set of network elements that incumbent LECs must unbundle.² Such an approach would be very practical if it does not require unbundling of elements for which there is no demonstrated demand. CBT recommends that the Commission specify only local loops and ports as the minimum elements that incumbent LECs must unbundle.

² NPRM at ¶ 77.

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The Commission should explicitly specify in its rules that resellers of both incumbent LEC services and competing carriers services must be telecommunications carriers, as defined by the Act. The Commission should recognize that resale restrictions serve only as a temporary correction for significant marketplace structural problems. A new universal service plan must be implemented which removes subsidies from existing services by rebalancing rates and, where necessary, allows the recovery of investments through explicit subsidy mechanisms.

CBT asserts that by including Section 251(f)(2) in the Act, providing a mechanism for suspensions or modification, Congress acknowledged significant differences in size, financial ability, resources and economies of scope and scale between small/mid-size LECs and large LECs.³ The purpose of Section 251(f)(2) is to ensure parity for small and mid-size LECs as they enter into competition for local exchange customers with significantly larger national or global telecommunications companies.⁴

³ Since the passage of the Act, these differences have been further magnified with announced mergers and the potential for even more industry consolidation in the future.

⁴ Telecommunications Act of 1996, Joint Explanatory Statement, p. 119.

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COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

I. INTRODUCTION

Cincinnati Bell Telephone Company ("CBT"), an independent, mid-size local exchange carrier, submits these comments in response to the Commission's proposed rules released April 19, 1996 to implement Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act").⁵ Decisions made in this proceeding will have a profound impact on consumers, the development of competition in the telecommunications industry, and the rights and obligations of service providers.

CBT is particularly concerned that the unique circumstances of CBT and other small and mid-size companies may be overlooked when the rules are implemented. Failure to adequately address the special concerns of smaller companies and the markets they serve

⁵ In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, released April 19, 1996. See also, Telecommunications Act of 1996, Pub. L. 104-104, §§ 251-252.

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would have a negative impact on their customers and will not produce the benefits of the competitive environment envisioned by the Act. The intent of Congress in enacting this legislation was to benefit consumers. Therefore, the Commission, in this and other proceedings, must consider the impact of its decisions on all consumers, not just those served by large telecommunications carriers or those served by new entrants.

Because of the concern that smaller companies may be overlooked in this proceeding, CBT will concentrate its comments primarily on issues that most directly impact small and mid-size companies and will rely on the comments submitted by USTA in this proceeding to address the more general concerns shared by all LECs.

II. DISCUSSION

A. Size Differences Between Telecommunications Carriers Become More Significant In A Competitive Market.

Within the local exchange market there have always been significant differences in size, resources, economies of scale and scope, and market characteristics between the RBOCs/GTE and other LECs. In the past, the Commission has recognized these differences⁶ and designed rules to accommodate these differences. In implementing the provisions of the Act addressed in this NPRM, the Commission must not lose sight of the

⁶ See, e.g., Report and Order, CC Docket No. 92-135, Adopted May 13, 1993, Effective June 11, 1993, at ¶¶ 1-15. Second Report and Order, CC Docket No. 87-313, Adopted September 19, 1990. Effective October 4, 1990, at ¶¶ 103, 257, 258, 259, 260.

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unique circumstances that smaller LECs face as they enter the competitive environment.

As extremely large telecommunications providers like AT&T, MCI and Time Warner enter the local exchange market and as several of the RBOCs merge, differences between companies like CBT and these larger participants in the market are becoming increasingly pronounced. CBT, operating in a relatively small geographic area⁷, with only 900,000 access lines and operating revenue of \$600 million faces a very different market in comparison to AT&T, with \$51 billion dollars of revenue, MCI, with over \$15 billion dollars of revenue, or Time Warner, with over \$8 billion dollars of revenue.⁸ Indeed, proposed mergers between the RBOCs, if approved, would result in LECs that eclipse CBT by 40 times in both access lines and revenue and operate in territories spanning several states and many major metropolitan areas.⁹ While drafting the Act, Congress wisely realized that all incumbent LECs were not equal in size and scale, and therefore, incorporated special provisions into the Act for smaller companies.¹⁰

These provisions, based on the Senate version of the legislation, were designed "to

⁷ CBT operates primarily in four counties in southwestern Ohio, six counties in northern Kentucky, and two counties in southeastern Indiana.

⁸ SEC 10-K Reports, 1995; AT&T Annual Report, 1995.

⁹ USTA Phone Facts, 1995. The merger of Bell Atlantic and NYNEX would result in a company with approximately 36 million access lines and operating revenue of \$24 billion dollars.

¹⁰ See Telecommunications Act of 1996, §§ 252(f)(1) and (2).

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provide a level playing field” for smaller companies facing “competition from a telecommunications carrier that is a large global or nationwide entity that has financial or technological resources that are significantly greater than the resources” of the smaller company.¹¹ Although the Act places the authority for granting exemptions, suspensions and modifications under Section 251(f) with state commissions, this Commission should establish guidelines that recognize the unique circumstances of small and mid-size LECs as the provisions of Sections 251 and 252 are implemented. Thus, CBT urges the Commission to carefully consider how the application of its rules in this proceeding and other upcoming proceedings will impact all carriers, not just the large incumbent LECs and to reflect those differences in all the regulations which are developed.

**B. Universal Service, Access Reform, Rate Rebalancing and
Deaveraging Required In A Competitive Market.**

CBT agrees with the Commission’s observation that this proceeding is one of a number of interrelated proceedings needed to advance competition in the local exchange market.¹² However, CBT is concerned that the rules in this proceeding will be promulgated and implemented before the other proceedings required by the Act are completed. Unfortunately, many economic inefficiencies will follow any attempt to implement the provisions of Section 251 without a complete overhaul of the current universal service

¹¹ Telecommunications Act of 1996, Joint Explanatory Statement, p. 119.

¹² NPRM at ¶ 3.

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support structure to remove all implicit subsidies from LEC rates, without access charge reform, and without allowing LECs to rebalance and deaverage their current rates. If these issues are not addressed, new market entrants will strive to maximize profits through the archaic system of subsidies established for a regulated monopoly environment. The economic consequences of such a convoluted system would be anything but efficient, and consumers would suffer the consequences. CBT has previously submitted to the Commission proposals on how universal service and competition can be maintained.¹³ CBT urges the Commission to carefully consider the principles set forth in those comments as the proper framework from which to design an economically efficient, competitively neutral system which will preserve universal service.

Although many of the mandates of the Act may in fact be appropriate in a redesigned system free of implicit subsidies and averaged rates, application of many of the provisions of the Act under the current regulatory framework would constitute an unconstitutional taking of LEC property. Where incumbent LECs are required to offer interconnection and unbundled elements at rates that do not enable them to recoup their total cost of providing the service or to offer services for resale at rates below cost,

¹³ See generally, CBT comments In the matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, submitted April 12, 1996.

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violations of the Takings Clause of the Fifth and Fourteenth Amendments may be found.¹⁴ Incumbent LECs must be allowed to recover not only the cost for the service at issue, but also those joint, common and historical costs imposed by regulators in mandating affordability standards and obligations to serve. Were the Commission not to allow a mechanism for the recovery of these costs, the legitimate expectations of LECs upon which these costs were incurred would be eliminated, thus effecting a taking of the property of the LEC without just compensation.¹⁵ Therefore, the Commission must ensure that the provisions of the Act are implemented in a fashion which does not result in an unconstitutional taking of LEC property.

C. Duty To Negotiate Interconnection Agreements In Good Faith.

In Section II.B.1 of the NPRM, the Commission seeks comment on whether or not it should establish guidelines for good faith negotiation of interconnection agreements.¹⁶ CBT believes that at a basic level, no need exists for the Commission to establish guidelines on good faith negotiations because, under the Act, if parties fail to negotiate in good faith, the

¹⁴ See Duquesne Light Co. v. Barasch, 488 U.S. 299, 308-310 (1989)("If the rate does not afford sufficient compensation, the State has taken the use of utility property without paying just compensation and so violated the Fifth and Fourteenth Amendments"); FPC v. Hope Natural Gas Co., 320 U.S. 591, 602 (1944)(carriers must be allowed sufficient return to attract investors).

¹⁵ Penn Central Transp. Co. v. New York City, 438 U.S. 104, 124 (1978)(Interference with property rights in a manner which undermines expectations constitutes a taking).

¹⁶ NPRM at ¶¶ 46-48.

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interconnection request may lead to arbitration by the state commission. However, as the Commission indicates, this is already becoming a contentious issue as some parties have alleged that incumbent LECs have refused to begin negotiations or are requiring requesting carriers to satisfy certain conditions before negotiations begin.¹⁷

1. Bona fide request.

In order to speed up the negotiation process and avoid sending negotiations to arbitration needlessly, CBT recommends that the Commission establish guidelines for what constitutes a bona fide request ("BFR") for interconnection, including a requirement to reimburse the LEC for any loss it incurs in fulfilling the BFR requirements. By having such guidelines in place, negotiations can promptly proceed to the essence of the request which is for the parties to negotiate the terms and conditions of interconnection, not whether the request itself is valid.

CBT recommends that the Commission adopt the following process for establishing a bona fide request for interconnection under Section 251.¹⁸ These guidelines also address many of the issues the Commission raises under Section II.B.2.a.(2) concerning just, reasonable, and nondiscriminatory interconnection.¹⁹

¹⁷ NPRM at ¶ 47.

¹⁸ With some modification, the guidelines being offered by CBT are similar to those being recommended by USTA in its filing in this proceeding. See, Comments of USTA, filed May 16, 1996.

¹⁹ NPRM at ¶¶ 60-62.

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An incumbent LEC's obligation to consider a request for interconnection begins with the submission of a bona fide request which must identify, at a minimum,

- a) the date on which the requesting telecommunications carrier received authority from the relevant state commission to provide the services giving rise to the need for interconnection,
- b) the specific points of interconnection sought,
- c) any desired interface specifications,
- d) how each interconnection point will be used,
- e) the date when interconnection is desired,
- f) the quantity of interconnection points ordered at the desired price, and
- g) any desired changes in LEC operations or procedures.

Any process adopted by the Commission should discourage spurious interconnection or unbundling requests. In order to achieve this goal, requestors should be required to include a commitment either to order the items requested in the quantity requested or to pay the incumbent LEC's costs of processing the request. In addition, arrangements offered by an incumbent LEC to the requestor should be made reciprocal.

Incumbent LECs must be able to recover costs of any investment required or expenses incurred to provide the requested interconnection. Requesting telecommunications carriers should be permitted to cancel a bona fide request at any time, provided they compensate the incumbent LEC for all related processing costs incurred through the date of

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cancellation. Furthermore, the Commission guidelines should include a provision which allows, at a minimum, states to require assurances such as performance bonds or deposits.

Incumbent LECs should process bona fide requests within a reasonable period of time. There must be a recognition that it will generally take small and mid-size LECs a longer period of time to process requests than larger companies, because of their limited resources.

The requesting carrier must provide service using the requested elements in the quantities requested within one year and the agreement must provide for a one-year minimum service period. States may require a longer service period and minimum volume commitments, particularly for agreements with small and mid-size LECs.

2. Existing agreements.

The NPRM also asks whether or not interconnection agreements adopted prior to enactment of the Act must be submitted to the state for approval.²⁰ CBT submits that the Act does not apply retroactively to agreements approved prior to the effective date of the Act. Section 252(a)(1) refers to agreements arrived at through negotiation upon a LEC's receipt of a request for interconnection pursuant to Section 251 of the Act. Thus, Section 252 was clearly intended to set forth procedures for negotiation, arbitration, and approval of interconnection agreements between incumbent LECs and new entrants providing basic

²⁰ NPRM at ¶ 48, 170, 171.

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local exchange service. The language of Section 252(a)(1) referring to “any interconnection agreement negotiated before the date of enactment” was clearly intended to apply to interconnection agreements between incumbent LECs and new entrants in states that had already authorized local exchange competition as of the date of enactment.

Agreements between incumbent LECs for exchange of traffic are not appropriate agreements on which to base future interconnection agreements. The Act clearly only contemplates agreements which reflect the nature of competitive coexistence between LECs and new entrants into the local exchange market. Agreements between existing non-competing LECs are not appropriate for several reasons. These agreements are for exchange of traffic between non-competing carriers serving customers in mutually exclusive territories and thus, have unique and distinct characteristics that are dissimilar to agreements between competing carriers. The Act does not intend for agreements between non-competing carriers to be used as models for future agreements between competing carriers. Rather, the Act merely seeks to ensure that all new entrants negotiating interconnection agreements with a particular LEC receive the same terms and conditions contained in interconnection agreements the LEC may have negotiated with other new entrants prior to the passage of the Act.

D. Relationship Between Interconnection And Transport And Termination.

In Section II.B.2.a. of the NPRM, the Commission requests comment on the relationship between interconnection as required of incumbent LECs under Section

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252(c)(2) and transport and termination under Section 251(b)(5) and poses the possibility that interconnection might include transport and termination.²¹ Clearly, such a possibility is not supported by the Act, in that the Act makes a clear distinction between the two. The simple fact that the Act established separate pricing standards for interconnection versus transport and termination indicates that Congress in no way intended for interconnection to include transport and termination.

Interconnection in Section 251(c)(2) is the physical linking of the *facilities and equipment* of two networks. Although interconnection is necessary before traffic can be transported and terminated over another carrier's network, transport and termination is a separate and distinct function from physical interconnection. There is no ambiguity in the Act regarding interconnection as only the physical linking of two networks. In Sections 251(a)(1), 251(c)(2), and 252(d)(1), the Act refers to interconnecting facilities and equipment and in no way suggests that interconnection is anything more than that.

E. Technically Feasible Points of Interconnection.

CBT believes that the Commission should set some flexible standards for determining technically feasible points of interconnection. CBT supports the following criteria, which is similar to that recommended by USTA in this proceeding²²:

- 1) The point of interconnection is defined by an interface that can

²¹ NPRM at ¶ 53.

²² Comments of USTA, filed May 16, 1996.

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be disclosed, ordered without unique or special handling, provisioned, maintained and billed for;

- 2) The point of interconnection affords nondiscriminatory access that can be managed without undermining network reliability, increasing the risks of physical damage, service impairment, service degradation, or service outage, or creating a hazard to customers or operating personnel;
- 3) The point of interconnection can be achieved in a manner that is consistent with applicable industry standards and protocols for equipment intended for the specific environment in which it is located (i.e., Central Office, Outside Plant, etc.), consistent with the standards the incumbent LEC applies to itself;
- 4) Physical and/or logical interconnection points must meet the service and security needs of customers, the incumbent LEC network, and the public; and,
- 5) The point of interconnection must enable the connecting carriers to isolate the networks for testing purposes so that problems within the networks can be properly identified. The testing capabilities must be available within the current network infrastructure of the LEC or the cost of adding such capability must be fully reimbursed to the LEC by the requesting carrier.

CBT urges the Commission to adopt the criteria outlined above. These criteria are flexible enough to apply regardless of the rate of technological advances in the industry. They are also applicable to each specific company's circumstances, so as not to unduly burden those companies which do not have the infrastructure to accommodate every interconnection point that may currently be available. This is particularly important to small and mid-size companies which may not have networks that are as technologically advanced as the large LECs.

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CBT strongly disagrees with the Commission's tentative conclusion that

interconnection at a particular point will be considered technically feasible within the meaning of section 251(c)(2) if an incumbent LEC currently provides, or has provided in the past, interconnection to any other carrier at that point, and that all incumbent LECs that employ similar network technology should be required to make interconnection at such points available to requesting carriers.²³

In reaching this conclusion the Commission has overlooked several very important implications of setting such a standard. First, although a carrier may in the past have provided interconnection at a particular point, the LEC may have updated its network so that interconnection at a point which was available in the past is no longer practical. Basing standards on past technology may slow the pace at which LECs invest in new technology, particularly if they are forced to maintain the past technology to accommodate potential requests for interconnection at those points.

Second, the suggestion that all LECs employing similar technology be required to make interconnection available to requesting carriers completely ignores the impact such a requirement could have on small and mid-size carriers. Although from a purely technological perspective, it would in fact be possible for interconnection to be provided, CBT believes that the Commission must consider the economic burden on small and mid-size LECs to accommodate interconnection at a particular point.

²³ NPRM at ¶ 57.

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Typically, the majority of the costs related to providing interconnection are introduced in the operational support systems or information systems of the LEC. The cost will be roughly the same for the LEC regardless of size. However, the unit cost will be far higher for the small and mid-size LECs which must spread the cost over a much smaller customer base.

Although companies with less than two percent of the nation's access lines may petition the state for a suspension or modification of certain interconnection requirements, the Commission should not establish inflexible standards that automatically force companies to seek waivers from the requirements. By adopting the more flexible criteria outlined above the Commission would encourage negotiations between the companies so that even smaller LECs can try to reach agreements that result in competitively neutral outcomes. In those instances where the parties cannot reach agreement and arbitration is necessary, the guidelines provide useful guidance for the state commissions, while allowing them to focus on the particular circumstances of the companies involved and the competitive environment in their state.

F. Collocation.

The Commission tentatively concludes that it should adopt national standards for implementing the collocation requirements of the Act.²⁴ CBT believes that the provisions

²⁴ NPRM at ¶¶ 66-73.

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of Section 251(c)(6) of the Act gives the states the responsibility for implementing the collocation requirements.

CBT supports the position stated by USTA in its comments filed in this proceeding, namely that the standards for collocation developed in the Expanded Interconnection proceedings²⁵ are sufficient. The extensive record generated in that proceeding supports the Commission's findings.²⁶ The enactment of the Act has introduced no intervening circumstances that alter the Commission's conclusion that the only locations where some form of collocation is required are: central offices, tandem switching locations, and remote nodes that serve as rating points for switched transport. Further, ancillary services associated with collocation (e.g. rent, security, deposits, equipment maintenance, utilities) are not Title II activities and should not be tariffed. Only the crossconnect charge associated with collocation should be tariffed.

G. Unbundled Network Elements.

CBT concurs with the Commission's tentative conclusion that the Commission should identify a minimum set of network elements that incumbent LECs must unbundle.²⁷ Such an approach would be very practical if it does not require unbundling of elements for

²⁵ CC Docket No. 91-141.

²⁶ Those findings are subject to judicial review as to whether the Commission's actions constitute a taking in violation of the Fifth and Fourteenth Amendments of the Constitution.

²⁷ NPRM at ¶ 77.

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which there is no demonstrated demand. CBT recommends that the Commission specify only local loops and ports as the minimum elements that incumbent LECs must unbundle. The minimum standards should not include any additional unbundling suggested in Section II.B.2.c.(3) of the NPRM. As the Commission observes, local loops and ports are the only elements currently being requested.²⁸ It makes no sense to set the minimum standards beyond this when there is no evidence of significant demand for other elements. If requesting interconnectors seek other unbundled elements, these can be negotiated via the bona fide request process outlined above. This approach will provide some national uniformity, while not needlessly burdening companies, particularly small and mid-size LECs, to modify their networks and make all the associated changes in provisioning and billing systems, etc., before the need arises.

The Commission seeks comment on the relationship between unbundling and resale. Specifically, the Commission asks if requesting carriers should be allowed to order and combine network elements in order to offer the same service an incumbent LEC offers for resale under Section 251(c)(4).²⁹ The Commission should explicitly prohibit companies from combining unbundled elements in order to create a service that is available for resale from the incumbent LEC. Network elements have no existing retail rate and are not sold to end users but to other carriers. Unbundled elements should be available only to new

²⁸ NPRM at ¶ 81.

²⁹ NPRM at ¶ 85.

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facilities-based providers to fill in gaps in their networks. They should not be used to circumvent wholesale rates established under Section 252(d)(3). Congress did not establish different pricing standards for unbundled elements versus resale to have new entrants simply combine unbundled elements to recreate the retail offerings of the incumbent LEC.

The Commission also requests comment on whether it should establish minimum requirements governing the terms and conditions for unbundling.³⁰ CBT submits that no need exists for the Commission to prescribe such requirements. The terms and conditions desired by each interconnector will be unique to meet their specific needs and, as such, would not lend themselves to any preestablished standards or requirements beyond those defined in the bona fide request. Other terms and conditions should be negotiated separately as part of each agreement. For negotiations which result in arbitration, the state commissions should be allowed to assess each situation and use their discretion to determine the appropriate resolution. Therefore, no federal guidelines for appropriate terms and conditions are necessary. Furthermore, state commissions can ensure that agreements submitted for approval are non-discriminatory.

The Commission tentatively concludes that unbundling loops from local switching is technically feasible.³¹ CBT agrees with this conclusion and supports the inclusion of the local loop as one of the minimum unbundled elements that the Commission should identify.

³⁰ NPRM at ¶ 89.

³¹ NPRM at ¶ 94.

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As the Commission indicates, several companies have already unbundled loops from local switching. Subloop unbundling on the other hand is not technically feasible nor is there currently any demand for subloop unbundling. The Commission should not define subloops as minimum network elements for unbundling.

The Commission poses several questions regarding unbundled switching capability.³² CBT supports defining access to the switching port as a minimum unbundled element. The port would include the physical connection between the loop and the switch and certain basic functions, such as voice and dialtone. In addition, competitors would obtain access to certain basic functions and capabilities provided by the switch, which would thus provide unbundled switching functionality. Specifically, it would provide connectivity to switching features associated with telephone lines and numbers, line-to-line switching capability, line-to-trunk switching capability, and inter-local switch connectivity. Not included with unbundled switching capability would be vertical services, (e.g. custom calling services), which would be available only on a resale basis, and not as unbundled elements.

CBT does not support the Commission's proposal to require unbundling of LEC facilities that correspond to interstate transport and special access rate elements. These elements are already available to requesting carriers through existing tariffs, and therefore, should not be required to be offered as unbundled elements pursuant to the Act.

³² NPRM at ¶ 101.

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CBT disagrees with the Commission's tentative conclusion that all incumbent LECs should be required to unbundle operator call completion services because the RBOCs are required to do so under Section 271 of the Act.³³ Section 271 of the Act was expressly intended to apply only to RBOCs, not to small and mid-size LECs. Therefore, operator call completion services should not be required as an unbundled network element for non-RBOCs. Requiring this as a minimum element for unbundling ignores the economic burden this would place on small and mid-size LECs.

CBT is also concerned with the Commission's tentative conclusion that subscriber numbers and information sufficient for billing and collection or used in the transmission, routing, or other provisions of a telecommunications service should be unbundled. Rather than mandating unbundling of these elements, the Commission should give state commissions full latitude to determine whether such a requirement would be in the public interest and to ensure that customer privacy safeguards are in place before these network elements are unbundled. To the extent that state commissions determine that such access is in the public interest, the unbundling of these elements should not be mandated, but rather addressed through the bona fide request process.

H. Pricing of Interconnection, Collocation, and Unbundled Network Elements.

The pricing of interconnection and unbundled network elements is obviously of

³³ NPRM at ¶ 116.